

## SECOND DIVISION

[ G.R. No. 134888, December 01, 2000 ]

**RAM'S STUDIO AND PHOTOGRAPHIC EQUIPMENT, INC.,  
PETITIONER, VS. COURT OF APPEALS AND SPS. CASTRO JOSE  
RIVERA AND GINA CYNTHIA HERNAL RIVERA, RESPONDENTS.**

### DECISION

**BELLOSILLO, J.:**

This is a Petition for Review on Certiorari under Rule 45 seeking to set aside the Decision and Resolution dated 20 February 1998 and 27 July 1998, respectively, of public respondent. The Decision set aside the orders of the lower court dated 6 March 1997 and 24 June 1997, and the Resolution denied petitioners' motion for reconsideration.

Ram's Studio and Photographic Equipment, Inc. (RAM'S) is a domestic corporation owned and managed by Daniel J. Daffon. On 8 November 1994 private respondent Gina Cynthia Hernal contracted petitioner RAM'S to take a video coverage of private respondents' wedding ceremony and reception. The nuptial rites were scheduled at 6:00 o'clock p.m. on 27 January 1995 and yet at quarter past 5:00 o'clock p.m. the bride was still at her hotel room waiting for the photographers of petitioner. For failure of the photographers to arrive on time for their picture taking, private respondent Gina Cynthia Hernal was able to alight from the bridal car and commence her march to the altar only at 7:00 o'clock p.m. Worse, when she claimed the videotape not long after she was informed that it was damaged. True enough, when private respondents and their families viewed the videotape they saw nothing during the first thirty-minute play except a brownish-black screen with silhouettes of what appeared to be people. Petitioner, through Mrs. Daffon, offered to retake the damaged portion free of charge and at the same time shoulder all the incidental expenses like make-up, etc., but the offer was rejected.

On 5 July 1995 private respondents filed a complaint for damages against petitioner before the Regional Trial Court of Muntinlupa City. On 23 August 1995 private respondents amended their complaint prior to the filing of any responsive pleading to the original complaint.

Twice petitioner moved for an extension of time to answer but failed to do so within the extended period. On motion of private respondents, petitioner was declared in default on 22 January 1996.

After private respondents presented their evidence *ex-parte*, the lower court rendered a decision, the dispositive portion of which reads -

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs and against the defendant as follows: 1. To pay the

amount of Five Thousand Nine Hundred Fifty Pesos (P5,950.00) as actual damages; 2. To pay Five Hundred Thousand Pesos (P500,000.00) as moral damages; 3. To pay Five Hundred Thousand Pesos (P500,000.00) as exemplary damages; 4. To pay One Hundred Thousand Pesos (P100,000.00) plus Two Thousand Pesos (P2,000.00) per appearance by way of Attorney's Fees; and, 5. To pay the costs of suit.<sup>[1]</sup>

On 10 April 1996 counsel for petitioner received copy of the decision. On 26 April 1996, i.e., one (1) day after the fifteen-day reglementary period within which to file an appeal and/or move for reconsideration or new trial had lapsed, petitioner filed a motion for new trial. For this reason, private respondents moved for the issuance of a writ of execution and to deny petitioner's belated motion for new trial.

On 11 October 1996 the lower court granted the motion for execution and on 13 January 1997 denied the motion for reconsideration filed by petitioner. Pursuant thereto the lower court issued on 14 January 1997 a writ of execution in favor of private respondents.

However in an order dated 6 March 1997 the lower court had a change of heart and granted petitioner's motion for new trial based on the following grounds -

From the records of this case, it appears that the Decision by default rendered on April 8, 1996 was received by the defendant's counsel, Atty. Orlando Alcaraz, on April 10, 1996. A copy of the same Decision was served upon defendant itself on April 11, 1996. On April 26, 1996, defendant's present counsel, Atty. Amadeo E. Balon Jr., filed by registered mail a Motion for New Trial. Counted from the receipt by defendant itself of the copy of the Decision, the Motion for New Trial was filed within the reglementary period. However, counted from the receipt of Atty. Alcaraz, the said motion was filed one day late, but still well within the period within which a petition for relief from judgment under Rule 38, Section 2, may be filed.<sup>[2]</sup>

On 24 June 1997 the motion for reconsideration filed by private respondents was denied by the lower court thus forcing them to elevate the matter before this Court. However in a resolution dated 1 October 1997, this Court referred the matter to the Court of Appeals for proper determination and disposition.<sup>[3]</sup>

On 20 February 1998 the Court of Appeals rendered its Decision setting aside the orders of the lower court dated 6 March 1997 and 24 June 1997.<sup>[4]</sup> In justifying its Decision it pointed out that petitioner's motion for new trial was filed after the lower court's judgment had already become final and executory. It noted that the decision of the lower court dated 8 April 1996 was received by counsel for petitioner on 10 April 1996. The motion for new trial was filed by registered mail on 26 April 1996 or one (1) day late. Hence the judgment became final upon the expiration of the period to appeal and no appeal had been duly perfected (Sec. 1, Rule 39, Rules of Court).<sup>[5]</sup>

Petitioner's motion for reconsideration was denied hence the instant petition for